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2 IN THE UNITED STATES DISTRICT COURT  
3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 PAVLE ZIVKOVIC,

6 Plaintiff,

7 v.

8 VALBELLA AT THE PARK, LLC

9 -----X

10 Zoom Video Conference

11 May 4, 2023

12 10:06 a.m.

13 EXAMINATION BEFORE TRIAL of DAVID GHATANFARD, the  
14 Defendant in the above-entitled action, held via Zoom Video  
15 Conference taken before ELIZABETH SANTOS, a Notary Public of  
16 the State of New York, pursuant to order and stipulations  
17 between Counsel.

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A P P E A R A N C E S:

HAROLDSALANT STRASSFIELD & SPIELBERG

Attorney for David Ghatanfard

81 Main Street

White Plains, New York 10601

BY: NEAL S. COMER, ESQ.

LAW OFFICES OF FRED SEEMAN

Attorneys for Robert Daleo

32 Broadway, Suite 1214

New York, New York 10004

BY: FRED SEEMAN, ESQ.

JOSEPH & KIRSCHENBAUM, LLP

Attorneys for Plaintiff

32 Broadway, Suite 601

New York, New York 10004

BY: JOSEF NUSSBAUM, ESQ.

Also present:

Lucas Buzzard (Sitting in with Mr. Nussbaum)

Leonard Spielberg (Sitting in with Mr. Comer)

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN the parties hereto through their respective counsel that all objections as to the form of the question shall be reserved to the time of trial;

IT IS FURTHER STIPULATED BY AND BETWEEN the parties hereto through their respective counsel that sealing, certification and filing shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that the within examination may be signed and sworn to before any Notary Public with the same force and effect as if signed and sworn to before this Court.

1                                   DAVID GHATANFARD

2       D A V I D     G H A T A N F A R D ,

3       having first been duly sworn by Elizabeth Santos, a Notary  
4       Public of the State of New York, was examined and testified  
5       as follows:

6       EXAMINATION BY

7       MR. NUSSBAUM:

8                   COURT REPORTER: Please state your name  
9       for the record.

10                  THE WITNESS: David Ghatanfard.

11                  COURT REPORTER: What is your present  
12       address?

13                  THE WITNESS: 56 Oak Grove Road, private  
14       house, South Hampton, New York.

15       Q.     Good morning, Ghatanfard.

16       A.     Good morning.

17       Q.     I've taken your deposition before, so I  
18       know you have some experience with this. I'm not  
19       going to go over the details of all the rules since  
20       I know you're familiar with them. We're taking your  
21       deposition today as part of a lawsuit that was  
22       brought by Pavle Zivkovic against Valbella at the  
23       Park, LLC.

24                         Do you understand that?

25       A.     Yes, I do.

1 DAVID GHATANFARD

2 Q. We're also taking your deposition today as  
3 part of an earlier lawsuit that Mr. Zivkovic brought  
4 against yourself personally and against Laura Kristy  
5 Midtown, LLC.

6 Do you understand that?

7 A. Yes, I do.

8 Q. Do you understand that you're going to be  
9 testifying today on behalf of yourself and on behalf  
10 of Laura Kristy Midtown, LLC?

11 A. Yes, I do.

12 Q. I'm going to be asking you a number of  
13 questions today. The court reporter who you saw  
14 earlier is going to be writing down everything that  
15 you say. So it's important that you give clear,  
16 audible, verbal answers to my questions.

17 Do you understand that?

18 A. Yes, I do.

19 Q. The court reporter has sworn you in and  
20 you're answering all questions under oath. Do you  
21 understand that you have the same obligation to tell  
22 the truth, and would be subject to the same  
23 penalties for perjury if you don't tell the truth as  
24 if you were testifying in the Court of Law?

25 A. Yes, I do.

1 DAVID GHATANFARD

2 talk for the rest of the deposition.

3 Do you understand that?

4 You're out of line already. You're out of  
5 line.

6 MR. SPIELBERG: I understand everything I  
7 need to understand to represent my client. You  
8 have not asked a substance of questions yet.  
9 I'm suggesting you ask one.

10 Q. Mr. Ghatanfard, do you intend to pay the  
11 plaintiffs the amount that you owe them?

12 A. I didn't agree on that.

13 Q. I understand that you didn't agree, sir.  
14 Is it your answer that you do not plan to pay them?

15 A. No, I don't have the money to pay.

16 Q. You don't have the money?

17 A. Nope.

18 Q. But you don't know how much you owe them,  
19 so how do you know that you don't have the money?

20 A. It doesn't matter. I have some clothes,  
21 and an old car. You want it, you can have it.

22 Q. Other than your clothes and your old car,  
23 do you own any other assets?

24 A. Not really, no.

25 Q. Do you have access to any other assets?

1 DAVID GHATANFARD

2 A. What kind?

3 Q. What types of documents would you look at  
4 to help you recall?

5 A. I don't look at any document.

6 Q. If you wanted to know which account you're  
7 using to pay for your gas, what documents would you  
8 look at?

9 MR. SPIELBERG: Objection.

10 A. I have to look at the credit card.

11 Q. How many credit cards do you have in your  
12 wallet?

13 A. Now?

14 Q. Yeah.

15 A. Two.

16 Q. Do you have your wallet on you right now?

17 A. I do.

18 Q. How many credits cards do you have in  
19 there?

20 A. Two.

21 Q. Which banks are they with?

22 A. One is Bank of America. And one card that  
23 is under Ms. Kalayjian. Authorized from Ms.  
24 Kalayjian that I have.

25 Q. Which bank is it with?

1 DAVID GHATANFARD

2 A. It's an American Express.

3 Q. With which bank?

4 A. It's an American Express.

5 Q. That's not the name. Which bank is that  
6 card with?

7 MR.COMER: Objection.

8 A. It's not a bank, it's American Express.

9 Q. So your testimony is that the account is  
10 Ms. Kalayjian's account, which she put you on it as  
11 an authorized user?

12 A. That's correct.

13 Q. And the other credit card is the Bank of  
14 America, the Valbella at the Park credit card?

15 MR. SEEMAN: Objection.

16 Q. What was the answer?

17 A. Yes.

18 Q. Do you have any other banking cards other  
19 than those two credit cards on your possession?

20 A. No, I don't.

21 Q. When did Ms. Kalayjian add you as an  
22 authorized user to her American Express account?

23 A. I really don't recall when was it.

24 Q. Was it more or less than five years ago?

25 A. Less than five years ago.



1 DAVID GHATANFARD

2 Q. Where is this money now, this one million  
3 fifty nine thousand dollars?

4 MR. SEEMAN: Objection.

5 A. I just answered you.

6 Q. No, you didn't. Where's is the money?

7 A. The money was -- the money wasn't my  
8 money. It was Ms. Kalayjian's and my money. We  
9 paid everything else on it.

10 Q. Why didn't you put Ms. Kalayjian on the  
11 deed of that?

12 MR. SEEMAN: Objection.

13 A. I didn't thought it was necessary,  
14 counsel.

15 Q. I'm going to mark another exhibit, as  
16 Plaintiff's Exhibit 10.

17 (The document was hereby deemed marked as  
18 Plaintiff's Exhibit 10 for identification, as  
19 of this date.)

20 Plaintiff's Exhibit 10 is another document  
21 that we received from Patriot Bank in response  
22 to subpoena.

23 In the middle there's a picture of a check  
24 from Chase Bank. On the top it says the  
25 DeSanto Law Firm.

1 DAVID GHATANFARD

2 Do you see that?

3 A. Yes, I do.

4 Q. And it says pay to the order of David  
5 Ghatanfard.

6 Do you see that?

7 A. Yes.

8 Q. And it's a check for 1.4 million dollars  
9 and a little bit more; right?

10 A. There's a date on it?

11 Q. The date is a little hard to see, but it's  
12 January 3, 2022.

13 Do you see that?

14 A. Yeah.

15 Q. And the check is for about 1.4 million  
16 dollars; right?

17 A. Yes.

18 Q. What's this check for?

19 MR. SEEMAN: Objection.

20 Q. You can answer, what's this check for?

21 A. Remortgaging the house.

22 Q. You keep speaking over your attorney. So  
23 please let him say his objection and then answer.

24 A. I am not. I'm looking at you and I'm  
25 answering you.

1 DAVID GHATANFARD

2 A. Yes.

3 Q. I just want to recap.

4 So you received a check for a little  
5 bit more than a million dollars in September 2020;  
6 right?

7 A. The date is on there, right.

8 Q. And then you took draws from Valbella  
9 Midtown up to 1.1 million in 2021; right?

10 A. That's what it said.

11 Q. And then you got more than 1.4 million, in  
12 a check made out only to you, for the refinance of  
13 your house in South Hampton; right?

14 A. That's what it says.

15 Q. So 1 million, plus 1.1 million, plus 1.4  
16 million, is the total of 3.5 million just from those  
17 three transactions; right?

18 A. I guess so.

19 Q. So since 2020, you received 3.5 million  
20 dollars, where's that money.

21 MR. SEEMAN: Objection.

22 Q. You can answer.

23 MR. SEEMAN: Objection.

24 Q. You can't confer with your attorney before  
25 you answer.

1 DAVID GHATANFARD

2 What's your answer.

3 A. I said I answered all those questions  
4 before.

5 Q. No, you didn't. I'm asking you, you took  
6 out --

7 MR. SEEMAN: Objection.

8 MR. NUSSBAUM: I'll try one more time  
9 Fred.

10 MR. SEEMAN: Objection.

11 Q. Mr. Ghatanfard, in those three  
12 transactions you got money paid directly to you only  
13 of more than \$3.5 million. I'm asking you, where is  
14 that money?

15 MR. SEEMAN: Objection.

16 Q. What's your answer?

17 MR. COMER: (Inaudible.)

18 MR. NUSSBAUM: We can't hear you, Neal.

19 MR. COMER: I said you asked him that  
20 question in various forms over and over again.  
21 It's enough, go to something else please.

22 MR. NUSSBAUM: No, I didn't, I asked  
23 him -- it's unfortunate that you can't follow.  
24 I asked him about the 1.1 million. I did not  
25 ask about the 1 million that he got in

1 DAVID GHATANFARD

2 September 2020. I did not ask him about the  
3 1.1 million from Valbella Midtown, and the 1.4  
4 million in the refinancing.

5 So I'm asking him now, where is all that  
6 money.

7 MR. SEEMAN: Objection.

8 A. I don't know.

9 Q. How is it possible that you don't know  
10 where \$3.5 million went.

11 MR. SPIELBERG: I object to that. It's  
12 ridiculous. It's a ridiculous question.

13 Q. You can answer.

14 MR.COMER: He has told you various times  
15 -- (Inaudible.)

16 MR. NUSSBAUM: We can't hear you, Neal.

17 MR.COMER: He has told you various times  
18 in various answers --

19 MR. NUSSBAUM: Neal, I'm cutting you off.  
20 I'm cutting you off --

21 MR.COMER: No, you're not cutting me off.  
22 I can keep talking for as long as you can --

23 MR. NUSSBAUM: For the record --

24 MR.COMER: I'm going to keep talking until  
25 you shut up and let me make my record --

1 DAVID GHATANFARD

2 MR. NUSSBAUM: For the record, you're  
3 coaching the witness --

4 MR. COMER: I'm talking, and I have to  
5 defend my client. And you're asking questions  
6 and you're trying to trap him, and your trying  
7 to ask the same question over and over again.  
8 And it's not right --

9 MR. NUSSBAUM: Your client is saying that  
10 he doesn't know where \$3.5 million went, that's  
11 who you're defending. If you want you can  
12 object it. I'm trying to ask him a follow-up  
13 question.

14 Q. How is it that you don't know that you  
15 have not kept track of where \$3.5 went Mr.  
16 Ghatanfard?

17 MR. SEEMAN: Objection.

18 Q. You can answer.

19 MR. SEEMAN: Objection.

20 MR. NUSSBAUM: He has to speak up.

21 Q. And you can't talk to your lawyer before  
22 answering.

23 A. I didn't talk to my lawyer.

24 MR. SPIELBERG: Put your head into the  
25 screen, so Mr. Nussbaum could know he's not

1 DAVID GHATANFARD

2 talking with you.

3 THE WITNESS: I am. Look at me, I'm  
4 sitting right in the screen.

5 Q. I'll ask it again so there's a clear  
6 record.

7 How is it possible that you have not  
8 kept track of \$3.5 million?

9 MR. SEEMAN: Objection.

10 A. I don't keep record of money.

11 Q. Did you get any money from Valbella at the  
12 Park?

13 MR. SEEMAN: Objection.

14 A. What do you mean by that? When?

15 Q. Have you received any money from Valbella  
16 at the Park?

17 MR. SEEMAN: Objection.

18 Q. Except for your salary, have you received  
19 any money from Valbella at the Park?

20 A. No, I did not.

21 Q. You said you're a partner in that  
22 restaurant; right?

23 A. Yes.

24 MR. SEEMAN: Objection.

25 Q. Do you know if any of the other partners

1 DAVID GHATANFARD

2 A. I don't know. I really don't know. I  
3 probably it's -- you know, you're a partner  
4 together. She paid a lot of the mortgages for us --  
5 for me. She paid for the house in the Hamptons and  
6 all the construction. And possible most likely some  
7 money went to her for all the money that she was  
8 investing, paying the mortgage and everything else.

9 Q. So you started off today by saying all you  
10 have are your clothes and your car. It doesn't  
11 bother you that you had three and a half million  
12 dollars in your hand, and now you just don't know  
13 where it went?

14 MR. SEEMAN: Objection.

15 A. No.

16 Q. What's your answer?

17 A. No.

18 Q. It doesn't bother you?

19 MR. SEEMAN: Objection.

20 A. I can go back and live somewhere else.

21 Q. Where are you going to go live?

22 MR. SEEMAN: Objection. Objection.

23 Q. I'm sorry, where were you going to go  
24 live?

25 MR. SEEMAN: Objection.



1 DAVID GHATANFARD

2 money; right?

3 A. I did not say that.

4 Q. But what's the largest amount of money  
5 that Rosey has ever paid into your joint account?

6 MR. SEEMAN: Objection.

7 A. I really don't know.

8 Q. Did she ever make any --

9 A. I don't think you give women any rights.  
10 You don't go in and think they can't make money.  
11 Women today make a lot of money.

12 Q. Unfortunately you don't know what I think.  
13 Did Rosey Kalayjian ever deposit more  
14 than \$100,000 at a time in your joint account?

15 A. I don't know.

16 MR. SEEMAN: Objection.

17 Q. Did she ever deposit more than \$50,000 at  
18 a time in your joint account?

19 MR. SEEMAN: Objection.

20 A. I don't recall.

21 Q. So Rosey now is making payments on your  
22 behalf, though; right?

23 A. Yes.

24 Q. January 16th, external withdrawal to  
25 Shellpoint Mortgage Moneyline for 7,000.